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10/036,440	01/07/2002	Ryoji Hayashi	Q67948	4925

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SUGHRUE MION, PLLC  
2100 Pennsylvania Avenue, NW  
Washington, DC 20037-3213

EXAMINER

ENATSKY, AARON L

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 09/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,440

Applicant(s)

HAYASHI, RYOJI

Examiner

Aaron L Enatsky

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: Line 6 of claim 1 contains the phrase “who participates the race”. Applicant appears to be missing a word. Appropriate correction is required.

Claim 5 is objected to because of the following informalities: Line 3 of claim 5 requires “, and activated when the player peeps the virtual telescope”. The claim is not clear in what is activated, whether it is the detection switch, the satellite table, or the virtual telescope. The language of the phrase also contains grammatical issues that need to be resolved. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 in line 3 uses the terminology “miniatures” wherein the terminology does not appropriately describe claimed subject matter. Furthermore, the definition of miniatures does not have any meaning in the art. Appropriate correction is required.

Claims 3 and 4 describe that two different processes generate a race image. Claim 3 requires position detection is used to generate a race image, whereas claim 4 requires the race image generated by management data. This language is considered confusing as it could be

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interpreted as both the position and the management data are used to generate an image. If this is the case, the processes would be conflicting and contradictory. If one were generating an image based upon management data, then there would be no need to use any position detection to generate the image data. The converse is true for using position detection for image generation. However if the management data is nothing more than the detected position data phrased in a different manner, the term should be changed to reflect the image generation by the process in claim 3. For the purposes of examination, the latter is assumed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP Publication No. 07-108088 to Riyuuou in view of US Patent No. 5,320,351 to Suzuki.

In regard to claim 1, Riyuuou teaches a table unit on which a racecourse is provided (Fig. 3), a plurality of miniature race entities participating in a race (Fig. 3), a plurality of satellite terminals surrounding the racecourse for users to participate in the race game (Fig. 1 and 2). The satellite terminals have a monitor, a control panel, and a coin slot and return (0002), wherein the monitor displays the race competition (0006) captured by cameras (0015). Riyuuou does not teach that a participant is given a computer generated graphic image that displays the race competition. Suzuki teaches a virtual race wagering game that can generate computer images of the actual racing objects to provide a more realistic image for observers (Abstract). The images

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presented by Suzuki provide a virtual telescope of the race imagery. Riyuuou and Suzuki are related as race wagering simulations games where one would be motivated to modify Riyuuou to use the realistic computer images taught by Suzuki so that users can be presented with a more realistic feel of an actual live race (Suzuki 8:3-15).

In regard to claim 2, Riyuuou in view of Suzuki teaches user satellite terminals in a tiered fashion (Riyuuou Fig. 2).

In regard to claim 3, Riyuuou in view of Suzuki teaches that the race game has position detection, and that any angle of the racing objects can be detected and subsequently generated into a computer simulation of a real race (Suzuki 3:1-24).

In regard to claim 4, Riyuuou in view of Suzuki teaches of horses run by computer operation, which would include a race manager and a mechanical object controller (Riyuuou 0013-0014). The image generator as discussed in the 3 is generated by position detection, which is generated by management.

In regard to claim 5, Riyuuou in view of Suzuki teaches that detection switch, described as a coin in detection mechanism, is provided at the satellite terminals, wherein the terminal is not activated to display race information until activation of the switch (Suzuki 3:30-39).

In regard to claim 6, Riyuuou in view of Suzuki teaches the racing objects can be horses (Riyuuou 0002) and a player predicts the winning racehorse (0002).

#### ***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Pat. No. 5,601,490 to Nakagawa et al. teaches a simulated race wagering game.

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US Pat. No. 6,059,657 to Oh et al. teaches a simulated race wagering game that uses an optional display mechanism.

US Pat. No. 6,394,898 to Nagao et al. teaches a simulated race wagering game that creates a simulated race image based on detected racing object positions.

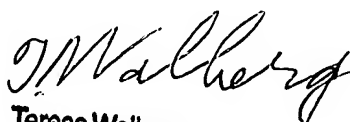
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky  
September 9, 2003

  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700